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Fax:
571-273-8300

Art Unit: 2841

Examiner: D. Levi

From:
Paul E. Steiner

Fax:
703-633-0933

M/S:

Subject:

Application No.: 10/054,083; Inventor: Yun LING, et al.

Filed: 1/18/2002

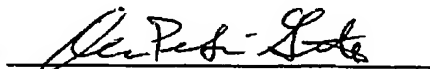
Docket No. P13118

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Fax Cover Sheet (1 page)

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Request for Rehearing Under 37 C.F.R. § 41.52 (5 pages)

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TRANSMITTAL FORM (to be used for all correspondence after initial filing)	Application Number	10/054,083	
	Filing Date	January 18, 2002	
	First Named Inventor	Yun LING	
	Art Unit	2841	
	Examiner Name	D. Levi	
Total Number of Pages in This Submission	7	Attorney Docket Number	P13118

ENCLOSURES (Check all that apply)		
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OCT 17 2006**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re patent application of:

Yun LING, et al.

Serial No.: 10/054,083

Group Art Unit: 2841

Filed: January 18, 2002

Examiner: D. Levi

FOR: A NOVEL LEVER DESIGN THAT COMBINES MODULE
INSERTION, RETENTION, EJECTION FUNCTIONS FOR
ADD-IN CARDS**REQUEST FOR REHEARING UNDER 37 C.F.R. § 41.52**Mail Stop Appeal Brief - Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Pursuant to 37 C.F.R. § 41.52, Applicant respectfully requests reconsideration of the following points in the Decision on Appeal mailed August 17, 2006.

The Board commits clear legal error in its claim construction which impermissibly eliminates several claim elements from the claims.

The Board appears to acknowledge that the reasoning applied by the Examiner is incorrect. The Board identifies those portions relied upon by the Examiner for allegedly reading on the claims, but does not apply those portions in making what is essentially a new basis for the rejection (applying other portions of Suzuki for allegedly reading on the claims). However, the Board performs the same type of shorthand examination as the Examiner in making the new, clearly erroneous rejection of the claims. Applicants respectfully request that the Board reconsider, giving each and every claim recitation its full weight, as the law requires.

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As noted in MPEP § 2141.02, it is legally improper to distill the invention down to some 'gist' of the invention. Proper claim construction requires full consideration of each and every claim recitation. The Board commits the following clear legal error in their claim construction:

Here, claim 1 recites in pertinent part the following limitations: "lever mechanism to apply a lever force on the card during insertion of the card in the slot of the connector. . . ." Besides reciting similar limitations, claim 11 also specifies "actuating the lever mechanism. . . ." Giving the representative claims their broadest, reasonable construction, the limitations require a lever for applying a force to a card during insertion of the card in the slot of a connector and actuation of that lever.

Applicants note that the Board errs on several points:

- 1) The Board incorrectly identifies the 'pertinent' part of the claims. Claim 1 actually recites:
"... an engaging surface positioned on the lever mechanism to apply a lever force on the card during insertion of the card in the slot of the connector ..."
- 2) For some reason which the applicants cannot comprehend, the Board commits clear legal error in construing the pertinent part of claim 1 as "a lever for applying a force to a card during insertion of the card in the slot of a connector." Applicants do not understand why the Board felt the need to restate the plain and clear language of claim 1, but in doing so the Board has impermissibly distilled the invention down to some 'gist' of the invention on which they could read the reference. This is clear legal error.
- 3) Claim 1 clearly recites that it is the engaging surface which applies the lever force on the card. The Board's improper claim construction reads the term 'engaging surface' out of the claim. Moreover, the Board's factual analysis ignores this aspect of the claim.

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4) Claim 1 clearly recites that a lever force is applied to the card. The Board's improper claim construction reads the modifying term 'lever' out of the claim. Again, the Board factual analysis ignores this aspect of the claim.

5) With respect to claim 11, applicants are extremely frustrated that neither the Examiner nor the Board will perform a full, fair, and legally proper examination of this claim. Claim 11 does not simply recite 'actuating a lever mechanism'. Nor does claim 11 recite only features which are similar to claim 1. Claim 11 recites in full:

11. A method comprising:

positioning a bottom edge of a card in a slot formed in a card-edge connector such that a first contact surface on a side edge of the card is positioned to contact an engaging surface of a lever mechanism pivotally coupled with the connector;

actuating the lever mechanism; and

moving the card into the slot by moving a contact surface of the lever mechanism from a first position to a second position.

In applicants' appeal brief, in addition to pointing out that the Examiner failed to address any of the claim recitations, applicants separately argued each of the foregoing recitations. Now the Board commits the same error as the Examiner. The Board fails to establish even a prima facie case of obviousness because the Board simply ignores all of the recitations of claim 11 except for 'actuating the lever mechanism'.

As to the substance of the Board's position, the Board admits:

More specifically, the reference explains that "the first lever 39(1) is used first to support the card board 21 at its one of the side card edges by cooperation of the side projection 43(1) with the side recess 27(1) (FIG. 2)." (Col. 4, ll. 2-5.)

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The surfaces of the first lever 39(1) are used to support the board. Suzuki does not teach or suggest the recited engaging surface to apply a lever force to the card. Moreover, with respect to claim 11, Suzuki does not teach 'positioning a bottom edge of a card in a slot formed in a card-edge connector such that a first contact surface on a side edge of the card is positioned to contact an engaging surface of a lever mechanism pivotally coupled with the connector'. Rather, as admitted by the Board, Suzuki teaches positioning the side edge of the card in the lever 39(1) to support the card.

The Board further admits:

For our part, we find that the first lever 39(1) is actuated to apply a rotational force to the card (21) during insertion of the card in the slot of the connector 31.

Applicants submit that a rotational force is different from the recited lever force. Accordingly, the reference fails to read on the claims.

With respect to claim 14, applicants first note that the claim recites an engaging surface attached to a surface of the lever mechanism above the ejector to engage a contact surface on the card during insertion of the card in the slot. Neither the Examiner nor the Board address this claim recitation and therefore fail to make an even prima facie case of obviousness.

Moreover, while limitations may not be read from the specification into the claims, claims terms are to be interpreted in the context of the specification. One skilled in the art would understand that 'hole' as used in the present claims would be construed as a through hole, and not a detent as proposed by the Board.

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In view of the foregoing, favorable reconsideration and reversal of the rejection is respectfully requested. Early notification of the same is earnestly solicited. If there are any questions regarding the present application, the Board is invited to contact the undersigned attorney at the telephone number listed below.

Respectfully submitted,

October 17, 2006

Date

/Paul E. Steiner/

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